

IN THE UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF GEORGIA
MACON DIVISION

BILLY RAY SPENCER,

Plaintiff

VS.

JO ANNE B. BARNHART,
S.S. Commissioner,

Defendant

NO. 5:04-CV-361 (WDO)

SOCIAL SECURITY APPEAL

RECOMMENDATION

On October 20, 2005, plaintiff was ordered to show cause as to why his case should not be dismissed for failure to prosecute. Tab #12. Plaintiff filed a response to the court's order which was untimely and did not address the issue of why he had not diligently prosecuted his case. Tab #13. In the interest of justice, plaintiff was afforded one last opportunity to respond to the court's order. Tab #14. Plaintiff filed his second response on December 30, 2005; this "response" also fails to address the issue of why he has not prosecuted his case. Tab #15.

Accordingly, IT IS RECOMMENDED that this action be DISMISSED for failure to prosecute, the court having determined that this failure is wilful on the part of the plaintiff. Pursuant to 28 U.S.C. §636(b)(1) the parties may serve and file written objections to this RECOMMENDATION with the district judge to whom the case is assigned **WITHIN TEN (10) DAYS** after being served with a copy thereof.

SO RECOMMENDED, this 22nd day of FEBRUARY, 2006.



A handwritten signature in blue ink, which appears to read "Claude W. Hicks, Jr.".

CLAUDE W. HICKS, JR.
UNITED STATES MAGISTRATE JUDGE